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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
2008 JUL 31 AM 10:08

UNITED STATES OF AMERICA,

Plaintiff,

v.

Jorge Luis GARCIA-Duran
(AKA: Jose GARCIA-Benitez)

Defendant.

Magistrate Case No. **08 MJ 2342**
CLERK OF COURT
SOUTHERN DISTRICT OF CALIFORNIA

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326;
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about, **July 25, 2008**, within the Southern District of California, defendant, **Jorge Luis GARCIA-Duran (AKA: Jose GARCIA-Benitez)**, an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
Immigration Enforcement Agent,
U.S. Immigration & Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **31st** DAY OF **July 2008**.



UNITED STATES MAGISTRATE JUDGE

AK

PROBABLE CAUSE STATEMENT

On July 25, 2008, the defendant identified as Jorge Luis GARCIA-Duran (AKA: Jose GARCIA-Benitez) was arrested by the National City Police Department for violation of Health & Safety Code 11550(A) "UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE" and booked into county jail. While in the custody of county jail, an Immigration Enforcement Agent determined the defendant to be a citizen of Mexico and placed a Form I-247 "Immigration Detainer" pending his release. On July 30, 2008, the defendant was referred to the custody of Immigration and Customs Enforcement (ICE). A Deportation Officer reviewed various sources of information and conducted official record checks confirming the defendant to be a citizen of Mexico having been previously removed from the United States on five occasions.

A thorough review of official immigration computer database record checks and information contained in the Alien Registration file revealed that the defendant was ordered removed from the United States by an Immigration Judge on or about May 4, 2005 and removed to Mexico on May 6, 2005 via the San Ysidro, Port of Entry. Record checks further indicate that the defendant has not applied to the Attorney General of the United States or the Secretary of the Department of Homeland Security for permission to re-enter the United States.

The Automated Biometric Fingerprint Identification System "IDENT" and Automated Fingerprint identification System "IAFIS" were utilized and compared the defendant's fingerprints to those contained in these databases. The results confirmed the defendant's identity as Jorge Luis GARCIA-Duran, a citizen and national of Mexico. A photograph and a set of fingerprints contained within the official Alien Registration File were also reviewed and compared to the defendant, further confirming his identity.